

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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JOHN K. BAUGHN, as Executor of the Estate of
ROBERT F. BAUGHN, Deceased,

Plaintiff,

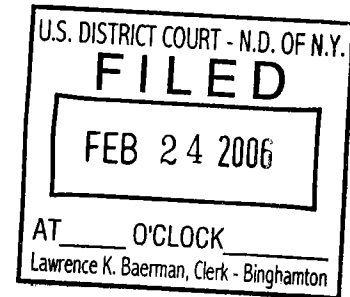
-against-

PRIDE MOBILITY PRODUCTS CORPORATION
and YANKEE MEDICAL, INC.,

Defendants.
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Docket No.: CIV 03CV1422
(TJM/RFT)

ORDER



WHEREFORE, defendant, Pride Mobility Products Corporation, by its attorneys, Miranda Sokoloff Sambursky Slone Verveniots LLP (formerly Miranda & Sokoloff, LLP), having duly moved for an Order: (i) pursuant to Federal Rule of Evidence 702 and the Local Rules of this Court, excluding the testimony and reports of plaintiff's proposed experts, Lawrence Colleton and Alexander Kusko; and, (ii) pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Rules of this Court, for summary judgment, dismissing all of the claims and cross-claims asserted against it in the above action;

WHEREFORE, defendant, Yankee Medical, Inc., by its attorneys Hanlon, Veloce & Wilkinson, having duly cross-moved pursuant to Rule 56 of the Federal Rules of Civil Procedure and the Local Rules of this Court, for summary judgment, dismissing all of the claims and cross-claims asserted against it in the above action and for conditional indemnification over and against Pride Mobility Products Corporation, and

SAID motions having duly come on to be heard before the Honorable Thomas J. McAvoy, USDJ on February 13, 2006, and

NOW, upon reading and filing of Pride Mobility Products Corporation's Notice of Motion, dated November 22, 2005, Pride Mobility Products Corporation's Rule 56 Statement of Undisputed Material Facts, dated November 22, 2005, the Declaration of Neil L. Sambursky, dated November 22, 2005 and the exhibits annexed thereto, Pride Mobility Products Corporation's Memorandum of Law in support of the motion, dated November 22, 2005, and upon Yankee Medical, Inc.'s Notice of Cross-Motion, dated December 21, 2005, Yankee Medical, Inc.'s Statement of Material Facts, dated December 21, 2005, and Yankee Medical, Inc.'s Memorandum of Law in support of its cross-motion, dated December 21, 2005, and upon Plaintiff's Declaration of Lawrence D. Lissauer, dated December 23, 2005, Plaintiff's Statement of Material Facts in Opposition to Defendant's Motion for Summary Judgment, dated, December 23, 2005, Plaintiff's Memorandum of Law in opposition to the Pride Mobility Products Corporation's motion, and Pride Mobility Products Corporation's Reply Memorandum of Law in support of the motion,

AND after hearing oral argument by Neil L. Sambursky, Esq., counsel defendant, Pride Mobility Products Corporation, in support of the motion, Thomas J. Wilkinson, counsel for defendant, Yankee Medical, Inc., in support of the cross-motion and Marshall Richer, counsel for the plaintiff, in opposition thereto, and after due deliberation having been held thereon, the Court having issued its Decision on the motion and cross-motion from the bench,

NOW, on this 24th day of February 2006, upon the motion of Miranda Sokoloff Sambursky Slone Verveniots LLP, attorneys for defendant, Pride Mobility Products Corporation, for the reasons in the Court's Decision as set forth in the ~~transcript~~ ^{record}, it is

ORDERED, that Pride Mobility Products Corporation's motion for summary judgment is hereby **GRANTED** in all respects; and it is further

ORDERED, that plaintiff's complaint and all claims and cross-claims asserted against Pride Mobility Products Corporation in the above action are hereby dismissed; and it is further

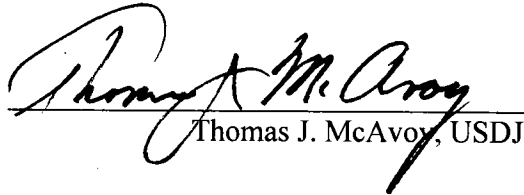
ORDERED, that Pride Mobility Products Corporation's motion to exclude the testimony and reports of Lawrence Colleton from the trial of this action is hereby **GRANTED** to the extent set forth by the Court on the record; and it is further

ORDERED, that Yankee Medical, Inc.'s cross-motion for summary judgment against Plaintiff is hereby **GRANTED** in all respects; and it is further

ORDERED, that all of the claims and cross-claims asserted against Yankee Medical, Inc. in the above action are hereby dismissed; and it is further

ORDERED, that Yankee Medical, Inc.'s cross-motion for summary judgment against Pride Mobility Products Corporation is hereby **DENIED AS MOOT**.

ENTERED:


Thomas J. McAvoy, USDJ